



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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February 8, 2007

In Reply Refer To:
6840 (CA930)P

EMS TRANSMISSION: 2/8/07
Information Bulletin No. **CA-2007-013**

To: District Manager, California Desert
Field Manager, Palm Springs-South Coast

From: State Director

Subject: Proposed Rule to Designate Critical Habitat for Nevin's Barberry **DD: 04/05/07**

On February 6, 2007, the Fish and Wildlife Service (Service) published a proposed rule (*Federal Register* 72: 5551-5580) to designate critical habitat for Nevin's barberry (*Berberis nevinii*). (See Attachment 1.) Proposed subunit 1A (Big Oak Mountain Summit) encompasses approximately 15 acres of BLM land in the Vail Lake/Oak Mountain area of western Riverside County. This proposed critical habitat unit is depicted on page 5570 of the proposed rule. The known occurrences of Nevin's barberry on BLM administered land are shown in Attachment 2.

The proposed rule solicits information on several topics, including: (a) the reasons why any areas should or should not be designated as critical habitat, (b) specific information on the amount and distribution of *Berberis nevinii* habitat and the habitat features that are essential to the conservation of this species, (c) the geographical extent, number of plants, and/or reproductive status of native *Berberis nevinii* occurrences in the vicinity of Vail Lake and other locations, (d) land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat, and (e) information regarding management plans covering lands managed by the BLM at Oak Mountain, and whether such plans provide sufficient management protection for *Berberis nevinii* such that consideration of exclusion of these lands under section 4(b)(2) of the Act would be appropriate.¹

Please review the proposed rule, and associated maps, and advise CA-930 (Attn: Ed Lorentzen) if you have comments or suggestions regarding the proposed critical habitat boundaries, or any other aspects of the proposed rule. The deadline for submitting comments to the Service is April

¹ Section 4(b) of the ESA requires the Service to designate critical habitat, and make revisions thereto, on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. **The Service may exclude any area from critical habitat if it determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat**, unless it determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.

9, 2007. Please provide us with your comments, if any, in electronic format by the close of business April 5, 2007.

For reference purposes, excerpts from the proposed rule relating to the BLM administered lands are shown in Attachment 3.

Now that critical habitat has been proposed for this species, the conference requirements of Section 7(a)(4) of the Endangered Species Act and its implementing regulations at 50 CFR 402.10 are applicable to any BLM actions likely to cause the destruction or adverse modification of proposed critical habitat. Additionally, the guidance in Manual Section 6840.06B1 calls for BLM to confer with the Service "... on any action that is likely to adversely affect a proposed species or proposed critical habitat." Any outstanding requests for formal consultation with the Service on Nevin's barberry (e.g. South Coast RMP) should be updated to include conference on proposed critical habitat.

Questions regarding this proposal may be directed to Ed Lorentzen at (916) 978-4646.

Signed by:
Mike Pool
State Director

Authenticated by:
Richard A. Erickson
Records Management

Attachments

- 1 - Proposed rule to designate critical habitat for Nevin's barberry (*Berberis nevinii*) (24 pp.)
- 2 - Map showing known occurrences of Nevin's barberry on BLM administered land (1 p.)
- 3 - Selected excerpts from the proposed rule relating to BLM administered lands (2 pp.)

Distribution

WO-230 (Attn: Steve Lydick)
CA-610 (Attn: Larry LaPre)
CA-660 (Attn: Joyce Schlachter)
CA-660 (Attn: Mark Massar)